

## COMMONWEALTH OF DOMINICA

International Instrument	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a), Succession (d)	Entry Into Force
UN Convention on the Rights of the Child	26 Jan 1990	13 Mar 1991	
UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography		20 Sep 2002 a	
Protocol to Prevent, Suppress and Punish Trafficking in Persons		17 May 2013 a	
UN Optional Protocol on the Involvement of Children in Armed Conflict		20 Sep 2002 a	
UN International Convention for the Protection of All Persons from Enforced Disappearance			
Hague Convention on International Child Abduction			

In Dominica, there are seven laws that refer directly or indirectly to missing children:

1. Offences Against the Person Act of 1873 (amended 1995);
2. Registration of Births and Deaths Act of 1916 (amended 1990);
3. Police Act of 1940 (amended 1990);
4. Children and Young Persons Act of 1970 (amended 1990);
5. Immigration and Passport Act of 1941 (amended 1995);
6. Sexual Offences Act of 1998 (amended 2016); and
7. Transnational Organized Crime (Prevention and Control) Act of 2013.

### General Child Protection

Dominica ratified the United Nations Convention on the Rights of the Child (CRC) on 13 March 1991.<sup>1</sup> Dominica has passed several pieces of national legislation concerning the overall well-being of children. These protective laws generally protect children from assault, neglect, harmful circumstances, mistreatment, domestic violence, and abandonment by parents or guardians.<sup>2</sup> For example, the Children and Young Persons Act of 1970 states that “any person who, having attained the age of eighteen years and having the custody, charge or care of any juvenile, willfully assaults, ill-treats, neglects, abandons or exposes the juvenile or causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause the juvenile unnecessary suffering or injury to health is liable on conviction on indictment, to a fine of \$3,000 and to

<sup>1</sup> See, Convention on the Rights of the Child, U.N. Treaty Collection Status Chart, at [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=en) (last visited May 7, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>2</sup> U.S. Department of State, *Dominica 2016 Human Rights Report* 10, at <https://www.state.gov/documents/organization/265792.pdf> (last visited May 7, 2018) (on file with the International Centre for Missing & Exploited Children).

imprisonment for two years.”<sup>3</sup> Furthermore, the Sexual Offences Act of 1998 protects against numerous crimes against children including: rape<sup>4</sup>; sexual intercourse with minors under age 16<sup>5</sup>; incest<sup>6</sup>; procurement<sup>7</sup>; and abduction<sup>8</sup>. The Act states that a person is guilty of unlawful sexual connection with another person if that person is under the age of 16, even if the minor gives consent.<sup>9</sup>

In recent years, child abuse has become a major concern within Dominica.<sup>10</sup> According to the U.S. State Department’s 2016 Human Rights Report, the most significant human rights abuses in Dominica included domestic and sexual violence against women and children.<sup>11</sup> As a result, to prevent child mistreatment and abuse the government has created educational initiatives, as well as implemented social welfare programs and passed legislation, all designed to combat these issues.<sup>12</sup>

### General Missing Child Issues

The Registration of Births and Deaths Act of 1916 requires every child born in Dominica to be registered with the Registrar within 14 days of birth.<sup>13</sup>

While Dominica does not have legislation that specifically addresses missing children, the Police Act outlines the duties of police women which include: “(a) uniform patrolling; (b) duties in connection with women and children reported missing or found wandering, destitute or homeless; (c) duties in connection with girls and children who have been victims of sexual offences or are in moral danger; (d) taking statements from women and children; (e) executing warrants on women and girls; (f) escort and court duties in connection with women and girls; (g) searching and finger-printing women and children; (h) observation upon women prisoners detained in hospitals; (i) plain clothes duties and detective work.”<sup>14</sup>

### Definition of “Missing Child”

There is no definition of the term “missing child” in Dominica’s legislation. The Constitution of the Commonwealth of Dominica views individuals as minors until they attain the age of 18.<sup>15</sup> The Children and Young Persons Act defines a “child” as a person under the age of 14 and a “young person” as a person 14 to 17 years of age.<sup>16</sup>

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<sup>3</sup> Children and Young Persons Act of 1970 (amended 1990), Chapter 37:50, Article 5 – Cruelty to juveniles, at <http://www.dominica.gov.dm/laws/chapters/chap37-50.pdf> (last visited May 7, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>4</sup> Sexual Offences Act of 1998, Article 3 – Rape, at <http://www.dominica.gov.dm/laws/1998/act1-1998.pdf> (last visited May 7, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>5</sup> *Id.* at Article 7 – Sexual intercourse with a person under 14; Article 8 – Sexual intercourse with a person between 14 and 16.

<sup>6</sup> *Id.* at Article 6 – Incest.

<sup>7</sup> *Id.* at Article 18 – Procurement.

<sup>8</sup> *Id.* at Article 22 – Abduction, etc.

<sup>9</sup> *Id.* at Article 4 – Unlawful Sexual Connection.

<sup>10</sup> *UWI professor laments lack of implementation of child protection laws*, DOMINICA NEWS ONLINE, Aug. 12, 2016, at <http://dominicanewsonline.com/news/homepage/news/general/uwi-professor-laments-lack-of-implementation-of-child-protection-laws/> (last visited May 7, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>11</sup> U.S. Department of State, *supra* note 2, at 1.

<sup>12</sup> UN Committee on the Rights of the Child, *Consideration of Reports Submitted by State Parties Under Article 44 of the Convention, Initial reports of States parties due in 1993 – Dominica*, 2003, at [https://digitallibrary.un.org/record/513576/files/CRC\\_C\\_8\\_Add.48-EN.pdf](https://digitallibrary.un.org/record/513576/files/CRC_C_8_Add.48-EN.pdf) (last visited May 7, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>13</sup> Registration of Births and Deaths Act of 1916 (amended 1990), Chapter 35:30, Article 16 – Information concerning birth to be given to registrar within fourteen days, at <http://www.dominica.gov.dm/laws/chapters/chap35-30.pdf> (last visited May 7, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>14</sup> Police Act of 1940 (amended 1990), Chapter 14:01, Article 57 – Police Women, at <http://www.dominica.gov.dm/laws/chapters/chap14-01.pdf> (last visited May 3, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>15</sup> The Constitution of the Commonwealth of Dominica of 1978, at <http://pdba.georgetown.edu/Constitutions/Dominica/constitution.pdf> (last visited May 7, 2018) (on file with the International Centre of Missing & Exploited Children).

<sup>16</sup> Children and Young Persons Act of 1970 (amended 1990), *supra* note 3, Article 2 - Interpretation.

### Abandonment

Dominica has several laws in place to protect children against abandonment by parents and guardians. For instance, Article 29 of the Offences Against the Person Act makes the unlawful abandonment of a child under the age of two, endangering the life or health of the child, punishable by imprisonment of two years.<sup>17</sup> The Act further protects against child neglect – the willful or malicious refusal or neglect to provide necessary food, clothing, or lodging – punishable with imprisonment of two years.<sup>18</sup>

Article 5 of the Children and Young Persons Act protects against the neglect and abandonment of juveniles under the age of 18 and provides liability “on conviction on indictment, to a fine of three thousand dollars and to imprisonment of two years; on summary conviction, to a fine of seven hundred fifty dollars and to imprisonment for three months.”<sup>19</sup>

### Kidnapping and Abduction

Dominica has several laws in place to combat child kidnapping and child abductions. The Sexual Offences Act of Dominica states that “any person who unlawfully takes away or causes to be taken away or detains another person against the will of that other person with intent: to commit or aid or abet the commission of an offence under this act will be guilty of an offence and liable to serve a prison term of up to 10 years.”<sup>20</sup> Additionally the Act states that “any person who knowingly assists or induces a juvenile to run away from a person to whose care he has been committed, or harbors or conceals a juvenile who has so run away and prevents him from returning, is guilty of an offence against this Act.”<sup>21</sup>

Additionally, Chapter 10 of the Offences Against the Person Act discusses the prohibition of the illicit transfer and non-return of children. Three subcategories are addressed, including:

- (a) *Child stealing*: A person is liable to be prosecuted if they unlawfully remove or detain, by whatever means, a child under 14 years from the possession of any person having the lawful care or charge of the child.<sup>22</sup>
- (b) *Abduction*: Any person who unlawfully takes, or causes to be taken, any unmarried girl under the age of 16 years out of the possession and against the will of her father and mother, or of any other person having the lawful care or charge of her, is liable to imprisonment for two years.<sup>23</sup>
- (c) *Kidnapping*: Any person who without lawful authority forcibly seizes and confines or imprisons any other person within the State, or kidnaps any other with intent, is liable to imprisonment for seven years.<sup>24</sup>

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<sup>17</sup> Offences Against the Person Act of 1873 (amended 1995), Chapter 10:31, Article 29 – Exposing Children Whereby Life is Endangered, at <http://www.dominica.gov.dm/laws/chapters/chap10-31.pdf> (last visited May 3, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>18</sup> *Id.*

<sup>19</sup> Children and Young Persons Act of 1970 (amended 1990), *supra* note 3, Article 5 – Cruelty to Juveniles.

<sup>20</sup> Sexual Offences Act of 1998, *supra* note 4, Article 22 – Abduction, etc.

<sup>21</sup> *Id.*

<sup>22</sup> Offences Against the Person Act, *supra* note 17, Article 54 – Child Stealing.

<sup>23</sup> *Id.* at Article 53 – Abduction.

<sup>24</sup> *Id.* at Article 65 – Kidnapping.

### Parental Abduction

Dominica is not party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.<sup>25</sup> The Immigration and Passport Act gives citizens of Dominica the freedom to move in and out of the country, and take their children with them, anytime they so choose.<sup>26</sup>

For people entering Dominica, “any passenger travelling with a child requires documentary evidence of the relationship to the person travelling with the child and permission from the child’s parent(s) or legal guardian if not present.”<sup>27</sup>

In order to obtain a passport for any child under the age of 16, “a passport application...must be made by or with the notarized consent of the parent, adoptive parent or legal guardian.”<sup>28</sup>

Furthermore, under the Immigration and Passport Act, government officials can ask for pertinent documents, such as a birth certificate, in order to ensure that a child is being taken outside of the country by legal means.<sup>29</sup>

### Reporting Mechanism

Dominica does not have a specific hotline or mechanism to report missing children. However, the public can report any crime or request police assistance through the emergency number 911.<sup>30</sup>

Crime Stoppers Dominica allows individuals to anonymously report a crime or other incidents, including missing persons both by phone (1-800-8477 (TIPS)) and online.<sup>31</sup>

### Investigation of Missing Child Cases

It is unclear whether the Dominica Police Force has a dedicated missing person/children department. No set protocol exists that outlines investigative procedures for retrieving missing children. However, in the case of runaway children, police do stress that it is important to investigate why the child felt the need to run away and if there are any larger issues involved.<sup>32</sup>

### National Database

Dominica does not have a national database in place for tracking missing and/or unidentified children. Dominica does, however, collaborate with INTERPOL, which includes missing individuals from Dominica in their missing person database.<sup>33</sup>

### Case Management System

Dominica does not have a case management system in place to organize and record information about cases of missing children.

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<sup>25</sup> U.S. Department of State, *supra* note 2, at 11.

<sup>26</sup> *Id.*

<sup>27</sup> *Dominica Immigration Requirements*, Dominica Embassy, at [http://www.dominicaembassy.com/dominica\\_entry\\_requirements/](http://www.dominicaembassy.com/dominica_entry_requirements/) (last visited May 3, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>28</sup> *Application For A Passport And Instructions On How To Complete*, Commonwealth of Dominica, at [http://www.dominica.gov.dm/images/documents/commonwealth\\_of\\_dominica\\_passport\\_form.pdf](http://www.dominica.gov.dm/images/documents/commonwealth_of_dominica_passport_form.pdf) (last visited May 3, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>29</sup> Immigration and Passport Act of 1941 (amended 1995), Chapter 18:01, at <http://www.dominica.gov.dm/laws/chapters/chap18-01.pdf> (last visited May 3, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>30</sup> *Emergency 911 system launched in Dominica*, DOMINICA NEWS ONLINE, Sep. 16, 2016, at <http://dominicanewsonline.com/news/homepage/news/general/emergency-911-system-launched-in-dominica/> (last visited May 7, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>31</sup> Crime Stoppers Dominica, at <http://www.crimestoppersdominica.org/> (last visited May 3, 2018).

<sup>32</sup> *Missing teen returns home*, DOMINICA NEWS ONLINE, Feb. 4, 2015, at <http://dominicanewsonline.com/news/homepage/news/human-interest/missing-teen-returns-home/> (last visited May 7, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>33</sup> INTERPOL, *Dominica*, at <https://www.interpol.int/Member-countries/Americas/Dominica> (last visited May 7, 2018) (on file with the International Centre for Missing & Exploited Children).

### Alert Mechanism

Dominica does not have an alert mechanism or a rapid notification system for notifying the public about missing children. There also does not appear to be a coordinated public appeals mechanism. However, the media plays a significant role in keeping citizens informed of missing children cases.<sup>34</sup>

### Awareness-Raising Initiatives

There are no awareness initiatives dealing specifically with missing children, but there are campaigns and programs focusing on other children's issues. Within the Welfare Division of the Ministry of Community Development and Gender Affairs there is a Child Abuse Prevention Program dedicated specifically to addressing child abuse-related issues within Dominica.<sup>35</sup> This program started as a joint venture between the Government and the National Children's Home, a British-based funding agency.<sup>36</sup> The Welfare Division works in close collaboration with the Committee for the Concerns of Children – a multi-disciplinary committee that aims, among other things, to help protect children from all forms of abuse.<sup>37</sup> The Committee is engaged in the development of prevention programs aimed at reducing the incidence of child abuse in the community.<sup>38</sup>

The NGO Coalition for the Protection of Children and Youth was created in 2014 as an umbrella organization comprised of multiple NGOs operating within Dominica.<sup>39</sup> Members of the Coalition include the Dominica National Council of Women, The National Youth Council, ChildFund Caribbean, West Dominica Children's Federation, and East Dominica Children's Federation.<sup>40</sup> The goal of the Coalition is to address the increasing number of child abuse cases through support services, advocacy, policy changes, and raising awareness.<sup>41</sup> It is unclear whether the Coalition addresses missing children.

### Trafficking

According to the U.S. Department of State's 2017 Human Rights Practices report, "there were no confirmed reports during the year that the country was a source, destination, or transit country for victims of human trafficking."<sup>42</sup> Dominica was not reviewed in the U.S. Department of State's annual Trafficking in Persons (TIP) report.

Dominica has been a transition country for international human trafficking networks bringing individuals, often from Haiti and the Dominican Republic, into Dominica before victims are moved to another country such as Guadeloupe.<sup>43</sup>

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<sup>34</sup> *Breaking News: Missing Nine-year-old found*, DOMINICA NEWS ONLINE, Jul. 10, 2017 at <http://dominicanewsonline.com/news/homepage/news/general/breaking-news-missing-nine-year-old-found/> (last visited May 7, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>35</sup> Ministry of Social Services, Family & Gender Affairs, Child Abuse Prevention, at <http://socialservices.gov.dm/index.php/divisions/social-welfare-division/14-divisions/welfare/15-child-care> (last visited May 7, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Dominica NGO Coalition for the protection of Children & Youth to be launched*, DOMINICA VIBES, Jun. 10, 2014, at <https://www.dominicavibes.dm/news-133021/> (last visited May 7, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> U.S. Department of State, *Country Reports for Human Rights Practices 2017 – Dominica*, at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2017&dliid=277325> (last visited May 29, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>43</sup> *Human trafficking network through Dominica and Guadeloupe dismantled*, CARIBBEAN NEWS NOW!, Feb. 17, 2014, at <http://www.caribbeannewsnow.com/topstory-Human-trafficking-network-through-Dominica-and-Guadeloupe-dismantled-19907.html> (last visited May 7, 2018) (on file with the International Centre for Missing & Exploited Children).

In May 2013, Dominica ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons (Palermo Protocol).<sup>44</sup> The Transnational Organized Crime (Prevention and Control) Act was implemented in 2013 giving effect to the Palermo Protocol.<sup>45</sup> The Act defines a child as a person under the age of 18.<sup>46</sup> The Act outlines that a person commits the offense of trafficking in persons when they, for the purpose of the exploitation of another person, organize or facilitate any of the following:<sup>47</sup>

- (a) the entry or proposed entry of the other person into Dominica;
- (b) the exit or proposed exit of the other person from Dominica; or
- (c) the receipt of the other person into Dominica.

by any of the following means:<sup>48</sup>

- (a) threats or use of force or other forms of coercion;
- (b) abduction;
- (c) deception or fraud;
- (d) the abuse of – (i) power; or (ii) a position of vulnerability;
- (e) the giving or receiving of payments or of a benefit in order to obtain the consent of a person who has control over another person.

Furthermore, the Act qualifies forced labor, sexual services, and the removal of human organs or tissue as trafficking in persons offenses.<sup>49</sup>

The Constitution of Dominica does not address trafficking specifically, but in Chapter 1, Section 4, it forbids holding an individual in slavery or servitude or forcing someone to perform labor.<sup>50</sup> In relation to trafficking, the Sexual Offences Act of Dominica states that a person who procures or induces a minor to have sexual intercourse with any person in Dominica or elsewhere is guilty of an offense and can be imprisoned for up to 25 years.<sup>51</sup>

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<sup>44</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, *Status of Ratification*, at [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12-a&chapter=18&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=en) (last visited May 3, 2018).

<sup>45</sup> Transnational Organized Crime (Prevention and Control) Act of 2013, at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/93708/109652/F-1644431634/DMA93708.pdf> (last visited May 7, 2018) (on file with the International Centre for Missing & Exploited Children).

<sup>46</sup> *Id.* at Article 2 – Interpretation.

<sup>47</sup> *Id.* at Article 8 – Offences relating to trafficking in persons.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* at Article 2 – Interpretation.

<sup>50</sup> The Constitution of the Commonwealth of Dominica, *supra* note 15.

<sup>51</sup> Sexual Offences Act of 1998, *supra* note 4, Article 18 – Procuration.